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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/778,087 | 02/07/2001 | Takahiro Ishikawa | 1538.1010 | 4567 |

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| EXAMINER |
|---|
| YIGDALL, MICHAEL J |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2192 | |

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

*--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

THE REPLY FILED <u>29 March 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

     Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

     NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.

6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). ~~remarks~~

7. ☒ For purposes of appeal, the ~~proposed amendment(s)~~: a) ☐ will not be entered, or b) ☒ will be entered ~~and an explanation of how the new or amended claims would be rejected is provided below or appended.~~

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: \_\_\_\_\_.

   Claim(s) objected to: \_\_\_\_\_.

   Claim(s) rejected: <u>1-12</u>.

   Claim(s) withdrawn from consideration: \_\_\_\_\_.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
    See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_

13. ☐ Other: \_\_\_\_\_.

Continuation of 11.

Applicant's arguments have been fully considered but they are not persuasive.

Applicant characterizes the stub object in Meyer as having a different function than the real object, and likewise contends that the stub object does not correspond to "an object of the class" (remarks, page 6, third paragraph to page 7, second paragraph).

First, however, it is noted that whether or not the stub object and the real object have the same function is not a limitation recited in the claims. Nonetheless, Applicant acknowledges that column 9, lines 38-46 of Meyer teaches that stub objects and real objects "should behave towards the other objects in exactly the same way" (remarks, page 6, third paragraph). Furthermore, the SX_NEW and SX_DELETE instructions (see, for example, column 10, lines 14-35) call for the construction and destruction of both the stub objects and the real objects, as Applicant also acknowledges (remarks, page 7, first paragraph). Meyer expressly discloses that all objects (i.e., both the stub objects and the real objects) inherit the same virtual method from the same base class, which is used to identify whether each object is itself a stub or real (see, for example, column 9, lines 54-61). In other words, a stub object, like a real object, is "an object of the class" as recited in the claims. Moreover, the rejections are based on a combination of references, and Martin expressly discloses generating instructions to instantiate a number of copies of an object that are all objects of the same class (see, for example, column 9, lines 44-54). The plain language of the claims does not exclude the references.

Applicant concludes that the protocol information file in Meyer is not an intermediate language (remarks, page 7, third paragraph).

However, without further limitation, the content of the protocol information file is broadly and reasonably considered "an intermediate language" as recited in the claims. Meyer discloses that the protocol information file is generated at step V220, after a source code analysis step V210, and that both steps (i.e., steps V210 and V220) are part of a preparation process V200 (see, for example, column 6, lines 34-48). As illustrated in FIG. 1, the results of the preparation process V200 are used in the compilation stage V300.

Applicant contends that Umekita does not teach or suggest the claimed method and system wherein the compiler is for "a parallel computer with shared memory" (remarks, page 8, fourth full paragraph).

However, Umekita expressly teaches a compiler (see, for example, parallel compiler 213 in FIG. 27) for a parallel computer with shared memory (see, for example, FIG. 28 and column 5, lines 30-27). One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981), and In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant's other arguments with respect to the claims are believed to have been addressed above and/or in the final Office action mailed on December 29, 2005.

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**TUAN DAM**
**SUPERVISORY PATENT EXAMINER**

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